

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-082-00167C

Parcel No. 0431011B11

APEX Carwashes, LLC,

Appellant,

vs.

Scott County Board of Review,

Appellee.

Introduction

The appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on October 25, 2019. Attorney Benjamin Yeggy represented APEX Carwashes, LLC (APEX). Scott County Attorney Robert Cusack represented the Board of Review.

APEX owns a commercial car wash property located at 9 Lincoln Avenue, Park View, unincorporated Scott County, Iowa. Its January 1, 2019, assessment was set at \$93,130, allocated as \$33,310 in land value and \$59,820 in improvement value. (Ex. A).

APEX petitioned the Board of Review contending the property was assessed for more than the value authorized by law. Iowa Code §§ 441.37(1)(a)(2) (2019). The Board of Review denied the petition.

APEX then appealed to PAAB and continues to assert the property is over assessed. § 441.37(1)(a)(2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the

appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

APEX's carwash, operated as Parkview Car Wash, was built in 1995 and has 1983 square feet of gross building area with two hand-wash bays and one automatic bay. It also has a vacuum station and 10,400 square feet of concrete paving. The improvements are listed in normal condition with a 4+00 Grade (average quality). The improvements have been physically depreciated by 54%, with an additional 20% functional obsolescence and a 20% economic obsolescence applied. An additional 20% other obsolescence was applied to the building subtotal. The site is 0.612 acres. (Ex. A).

APEX purchased the subject property in November 2018 for \$92,000. (Ex. 3). Jens Baker, APEX's owner, testified the subject property and two other car washes owned by the same seller had been on the market for a long period of time before he began purchase negotiations; he believes the prior owner was retiring from the business. Baker did not purchase the other two car washes that were for sale at the same time.

Baker explained the purchase price allocated \$47,000 to the real property and \$45,000 was allocated to the personal property – car wash equipment. The allocation of the purchase price was determined based on his review of the existing equipment associated with the subject property's car wash operation. Baker does not believe the equipment was original but he did not know how old it was and noted each piece of equipment would likely have had a different actual age and remaining life. Baker owns several car washes throughout the Quad Cities and testified the equipment has value to him because of the ability to move equipment to other car washes he owns. He explained there is an economic life associated with each piece of equipment and in his

review of the subject's equipment he determined a value of something greater than \$45,000, but negotiated to that value for allocation purposes.

Nekoda Rowell, an appraiser with the Scott County Assessor's Office, testified for the Board of Review. Rowell testified to his knowledge of the subject's November 2018 transaction. Rowell explained the seller told him the subject property was worth more than the \$92,000 sale price but he was motivated to sell because of failing health. (Ex. A, p. 8). Notes on the property record card indicate the seller also indicated that a realtor told the seller the value was reasonable for the property based on traffic counts. (Ex. A, p. 8). It also appears no realtor was actually used for the transaction. (Ex. A, p. 8).

Rowell testified the subject property's 2018 assessment was \$132,380. After the subject property sold, a review of the assessment occurred resulting in a reduction to its 2019 assessed value of \$93,130. Rowell explained the Department of Revenue's REAL PROPERTY APPRAISAL MANUAL was used to value the subject property. (Ex. P). While the assessment lists existing equipment associated with the car wash operation, it is not included as part of the assessed value. (Ex. A, p. 3).

Rowell noted the subject property has a second level, which the Assessor's Office believes is an office area but it has never been inspected. (Ex. A, p. 7). The second level has a depreciated total assessed value of \$10,270. (Ex. A, p. 4). Rowell testified the assessed value reflects this space as being empty and underutilized as evidenced by the applied 20% functional and 20% economic obsolescence adjustments. Baker testified the second level is open rafter space with no ceiling or floor and believes the \$10,270 assessed value should be removed. We note that APEX did not raise an error claim.

Baker testified about the income statements he received from the prior owner of the subject property. (Ex. 2, Park View Statements – marked as pp. 12-13). Based on this document, Baker asserts the actual income of the subject property, prior to his ownership, was just over \$1800 a year after expenses. Assuming a capitalization rate of 10%, Baker argues the value of this car wash would only be about \$18,000. Based on this analysis, he believes this supports his opinion that the \$92,000 purchase price does

not reflect the value of the real property alone. Baker's analysis is based on actual income rather than market income, and he did not provide any support for his use of a 10% capitalization rate.

Baker testified he did not have the subject property appraised. Nor did APEX offer any recent sales of car wash facilities, a market income analysis of similar car wash facilities, or a depreciated cost of constructing a car wash like the subject property.

Rowell testified the subject's \$33,310 site value is based on a land rate of \$1.25 per square foot; which is used for similar commercial properties with sites under 1 acre. (Ex. A, p. 1; & K). Commercial sites that are larger than an acre, like the neighboring site to the west of the subject property, are assessed on a per acre rate. (Ex. H & I). The Board of Review's exhibits appear to show similarly situated property assessed at the same rate. (Ex. I & K).

APEX was critical of this method, noting the neighboring property to the west, which was purportedly assessed on a per-acre basis of \$55,000 an acre and \$25,000 for additional acres has an assessed site value of \$46,250. (Ex. L). Rowell testified that while he did not have the property record card for this parcel, he assumed there was some obsolescence applied to the site resulting in its assessed value being less than the primary acre rate.

The Board of Review also submitted one 2016 and two 2018 land sales of commercial properties located within a block of the subject property. The land sales range from \$47,500 to \$165,000, with an average sale price per square foot of \$2.48. (Exs. O & R). Apex took issue with one sale, which was a purchase by Casey's General Store in 2016. The price per square foot of this sale was \$3.48. Baker noted in an email communication he did not believe this was comparable to the subject. (Ex. 1). Removing this sale, the average price per square foot would be \$1.95, which would continue to support the subject property's current land assessment rate. The lowest land sale would indicate a land value for the subject property of \$44,770. APEX asserts the total value of its real property is just \$47,000. This would result in a de minimus value of \$2230 for the improvements, which is an operating car wash with no indication

of being shut down. The Board of Review asserts the subject buildings continue to contribute to the value.

The Board of Review identified eleven car wash facilities in Scott County, four of which sold between 2013 and 2016. (Ex. R). The following table summarizes the properties it believes are the most comparable to the subject facility based on location, features, age, and building size.

Comparable	Year Built	Gross Building Area (SF)	Site Size (SF)	Sale Date	Sale Price	Assessed Value	SP/SF	AV/SF
Subject - Park View	1995	1,983	26,649	Dec-18	\$92,000	\$93,130	\$46.39	\$46.96
1 - Walcott	1994	1,890	18,746	Mar-15	\$99,000	\$104,020	\$52.38	\$55.04
2 - Buffalo	1971	1,770	6,240			\$61,510		\$34.75
3 - Blue Grass	1971	1,888	11,625	Sep-16	\$83,000	\$90,400	\$43.96	\$47.88
4 - Eldridge	1980	1,984	41,818	Oct-15	\$120,000	\$105,870	\$60.48	\$53.36

The subject property is newer than all of the sales and has one of the largest GBA. The average assessed value of these four properties is \$47.76 per square foot, which is slightly greater than the subject's assessed value per square foot. The average unadjusted sale price per square foot of Comparables 1, 3, and 4 is \$52.28 compared to the subject's sale price per square foot of \$46.39. Rowell testified he did not know if the sale prices of these properties included any equipment value. Based on this analysis, the Board of Review asserts the subject property is not assessed for more than authorized by law.

Analysis & Conclusions of Law

APEX contends its assessment is for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it

is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

Sale prices of property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.* The sale price of the subject is a matter to be considered in arriving at market value, but does not conclusively establish that value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996); *McHose v. Property Assessment Appeal Bd.*, 2015 WL 4488252 (Iowa Ct. App. July 22, 2015) (upholding PAAB’s decision not to rely on subject’s sales price of \$71,900 when evidence showed comparable properties were sold from \$103,000 to \$106,000).

In this case, APEX relies on the allocated purchase price of the subject property alone to establish its market value. For the following reasons, we conclude that whether or not this evidence is sufficient to shift the burden under section 441.21(1)(b), the Board of Review has upheld that burden to support the assessment.

APEX purchased the subject property in November 2018, and its owner Jens Baker acknowledged the seller was exiting the car wash business and selling several properties. The Board of Review confirmed the seller was retiring from the car wash business and also had some health issues driving his desire to sell his properties, including the subject property.

APEX asserts \$47,000 is the actual price paid for the real property because the \$92,000 purchase price allocated \$45,000 to non-taxable equipment. APEX did not provide any additional evidence of the property’s value such as comparable sales, an appraisal or a Comparable Market Analysis (CMA), which is typical evidence to support

a claim of over assessment. Nor did APEX substantiate the value of the carwash equipment beyond the allocation in the purchase agreement.

In order to support the assessment, the Board of Review submitted three recent land sales in the subject's immediate area. All of the land sales support a land value for subject that equals or exceeds the total value APEX seeks for the total value of the property. If we were to rely on APEX's allocation it would require us to conclude the subject improvements have no contributory value to the site. We find this unreasonable. The subject property is an operating car wash and there is no indication it will imminently close or cannot be used. See *Maytag Co. v. Partridge*, 210 N.W.2d 584, 590 (Iowa 1973) ("When an assessor considers the use being made of property, he is merely following the rule that he must consider the conditions as they are."). We conclude the Board of Review's land sales, coupled with its car wash sales, are the most persuasive evidence in the record.

Viewing the record as a whole, we find the subject property is not over assessed.

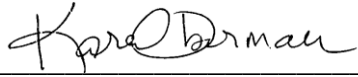
Order

PAAB HEREBY AFFIRMS the Scott County Board of Review's action.

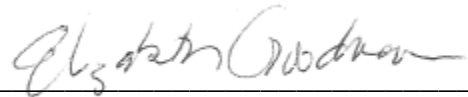
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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